

### **Board Members**

Maryann Santos de Barona, Ph.D.  
Chairperson  
James J. Cox, Ed.D.  
Vice-Chairperson  
Joseph C. Donaldson  
Secretary  
Wil R. Counts, Ph.D.  
Manuel H. Delgado, Jr., J.D.  
Miki Paul, Ph.D.  
Byron N. Rimm  
Michael J. Rohrbaugh, Ph.D.  
David P. Yandell, Ph.D.



## **State of Arizona Board of Psychologist Examiners**

1400 West Washington, Suite 235  
Phoenix, Arizona 85007

Phone: (602) 542-8162 Fax: (602) 542-8279  
[www.psychboard.az.gov](http://www.psychboard.az.gov) [info@psychboard.az.gov](mailto:info@psychboard.az.gov)

### **Staff**

Maxine McCarthy  
Executive Director  
  
Marcus E. Harvey  
Deputy Director  
  
David S. Shapiro  
Investigator  
  
Shari S. Courtney  
Administrative  
Assistant

## **REGULAR SESSION MINUTES**

**Friday, February 6, 2004**

1400 West Washington  
Basement Conference Room, #B-1  
Phoenix, AZ 85007

### **1. CALL TO ORDER**

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Santos de Barona at 8:38 a.m. on Friday, February 6, 2004. Two Executive Sessions were held from 9:55 a.m. to 10:07 a.m. and from 3:07 p.m. to 3:29 p.m. for the purpose of obtaining confidential legal advice from the Board's attorney.

### **2. ROLL CALL**

#### **Board Members Present**

Maryann Santos de Barona, Ph.D. - Chairperson  
James J. Cox, Ed.D. - Vice-Chairperson  
Joseph Donaldson - Secretary<sup>2</sup>  
Manuel H. Delgado, Jr., J.D.  
Michael J. Rohrbaugh, Ph.D.  
David P. Yandell, Ph.D.

#### **Board Members Absent**

Wil R. Counts, Ph.D.

#### **Board Members Appointed**

##### **But Not Inducted**

Miki Paul, Ph.D.<sup>1</sup>  
Byron N. Rimm<sup>3</sup>

#### **Staff Present**

Maxine McCarthy, Executive Director  
Marcus Harvey, Deputy Director  
David Shapiro, Investigator  
Shari Courtney, Administrative Assistant

#### **Assistant Attorney General**

Nancy J. Beck, J.D.

### **3. REMARKS/ANNOUNCEMENTS**

Dr. Santos de Barona announced that documentation was available for licensees who wished to receive continuing education credit for attending Board meetings. She also stated that anyone was welcome to complete a Board meeting assessment survey. Dr. Santos de Barona announced that times on the agenda were approximate, but that the Board would attempt to begin scheduled hearings on time, which could result in the suspension of discussion of certain agenda items until a later time.

<sup>1</sup> Dr. Paul was present in the audience but did not participate.

<sup>2</sup> Not present from 2:30 p.m. to 4:39 p.m.

<sup>3</sup> Mr. Rimm was not present.

Dr. Santos de Barona also recognized Miki Paul, Ph.D., who was present in the audience and who had been appointed by Governor Napolitano as the new psychologist Board member, in place of Maureen Lassen, Ph.D. She also announced that the Governor had appointed Byron N. Rimm, Vice-President of the Dial Corporation, as the new public Board member in place of Denise Bainton, Esq. The newly appointed Board members had not yet been inducted into the Board.

#### **4. APPROVAL OF MINUTES**

- **Regular Session – January 10, 2004**

A motion was made by Dr. Cox, seconded by Dr. Yandell, and carried (4-0-2), with Mr. Delgado and Dr. Rohrbaugh abstaining from the vote, to approve the January 10, 2004 Regular Session minutes.

- **Conference Call Regular Session – January 16, 2004**

A motion was made by Dr. Cox, seconded by Dr. Rohrbaugh, and carried (5-0-1), with Mr. Donaldson abstaining from the vote, to approve the January 16, 2004 Conference Call Regular Session minutes.

#### **5. CALL TO THE PUBLIC**

Chairperson Santos de Barona gave the public the opportunity to address the Board at this time.

- Faren Akins, Ph.D. spoke in support of Senate Bill 1237 regarding immunity from Board complaints for judicially-appointed psychologists.
- Mathilda Canter, Ph.D. addressed the Board in support of the proposed expungement rule, as addressed under agenda item number 8.
- Joel Glassman, Ph.D. addressed the Board, acknowledging the Board's efforts to address licensee's concerns with the complaint process, and in support of the proposed expungement rule.
- Alan Goldberg, Psy.D. spoke in support of SB1237 and the proposed expungement rule.
- Richard Morris, Ph.D. addressed the Board asking that it consider making statute changes regarding school psychologists, and removing some outdated language regarding psychometrists. He also proposed that the Board create subcommittees of public experts to perform an initial evaluation of complaints before they are forwarded to the full Board. Dr. Morris also stated his opposition to SB1329 regarding changes to the Board's licensure and residency requirements. Finally, he spoke in support of the proposed expungement rule.
- David Wenner, Esq., attorney for Complainants in Requests for Investigation (RFI) Nos. 03-39 and 03-40, addressed the Board regarding the cases.
- The Complainant, L.F., in RFI Nos. 03-39 and 03-40 addressed the Board regarding her complaints.

#### **6. DISCUSSION/DECISION REGARDING INITIAL REVIEW OF REQUESTS FOR INVESTIGATION (RFI)**

a) **RFI 03-18 – Robbie Adler-Tapia, Ph.D.**

Paul Giancola, Esq., attorney for Dr. Adler-Tapia, addressed the Board regarding this complaint. Board members then proceeded to deliberate after which Dr. Rohrbaugh made a motion, seconded by Mr. Donaldson, and unanimously carried (6-0), to dismiss the case.

**b) RFI 03-22 – Daniel Gaughan, Ph.D.**

David Shapiro, Board Investigator, summarized the allegations and Board members proceeded to deliberate. Dr. Rohrbaugh made a motion which died for lack of a second to issue a letter of concern to Dr. Gaughan. After further discussion, Dr. Cox made a motion, seconded by Dr. Yandell, and carried (5-1), with Dr. Rohrbaugh voting no, to offer Dr. Gaughan a consent agreement, in lieu of an informal interview, finding him in violation of A.R.S. § 32-2061(A)(13)(o). Dr. Cox then made a motion, seconded by Mr. Donaldson, and carried (5-1), with Dr. Rohrbaugh voting no, to offer to place Dr. Gaughan on probation until he completes six hours of continuing education in cultural competency and six hours in MMPI-2 interpretation within six months.

**c) RFI 03-36 – Joel Glassman, Ph.D.**

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Cox made a motion, seconded by Mr. Donaldson, and unanimously carried (6-0), to dismiss the case, as there was no violation of the Board's statutes or rules. It was also the consensus of the Board to refer a copy of the report by H. Lee Mitchell, M.D., Ph.D. to the Arizona Medical Board for possible investigation.

**d) RFI 03-37 – Mark Rohde, Ph.D.**

Dr. Rohde addressed the Board after which Mr. Delgado read a summary of this complaint prepared by Dr. Counts for the Board. After some deliberations, Dr. Cox made a motion, seconded by Mr. Donaldson, and unanimously carried (6-0), to dismiss this complaint.

**e) RFI 03-39 – Marilyn Kieffer-Andrews, Ph.D.**

Mr. Shapiro summarized the allegations, after which Dr. Kieffer-Andrews addressed the Board regarding this complaint. David Wenner, Esq., attorney for the complainant, also made a statement to the Board. Board members then proceeded to deliberate. Dr. Cox made a motion, seconded by Dr. Yandell, and unanimously carried (6-0), to proceed with a formal hearing in this case before the Office of Administrative Hearings, together with RFI 03-40, due to the referral of Dr. Powers to Dr. Kieffer-Andrews and the overlapping issues in the two cases.

**f) RFI 03-40 – Frank Powers, Ph.D.**

Dr. Frank Powers addressed the Board regarding this complaint after which Board members proceeded to deliberate. Dr. Cox made a motion, seconded by Dr. Yandell, and unanimously carried (6-0), to proceed with a formal hearing in this case. After further discussion, it was the consensus of the Board to refer this case to the Office of Administrative Hearings.

**h) RFI 03-41 – Patti Watson, Ed.D.**

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Mr. Donaldson made a motion, seconded by Mr. Delgado, and unanimously carried (6-0), to dismiss this complaint.

**i) RFI 03-43 – Barbara Cohen, Psy.D.**

Gerald Ehrlich, Esq., attorney for Dr. Cohen, addressed the Board regarding this complaint. Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. A motion was made by Mr. Donaldson, seconded by Dr. Yandell, and unanimously carried (6-0), to dismiss the case.

**7. DISCUSSION/DECISION REGARDING REQUEST FOR TERMINATION OF ORDER OF PROBATION – Board Order No. 01-16 – Walter Fidler, Ph.D.**

Stephen Myers, Esq., was present with Dr. Walter Fidler, requesting early termination of the Board's Order of Probation No. 01-16. After some discussion, a motion was made by Dr. Yandell, seconded by Dr. Cox, and carried (4-1-1), with Dr. Rohrbaugh voting no and Mr. Donaldson not present, to terminate Dr. Fidler's order of probation effective February 6, 2004. The termination of the Order of Probation does not affect Dr. Fidler's Decree of Censure.

**8. DISCUSSION/DECISION REGARDING PSYCHOLOGISTS' REQUEST TO REVISE THE BOARD'S ADMINISTRATIVE RULES TO INCLUDE "EXPUNGEMENT" OF BOARD COMPLAINTS AFTER THREE YEARS**

Ms. McCarthy, Executive Director, announced that the Board was informed earlier today that there is a petition signed by 72 psychologists requesting that the Board adopt a rule similar to Rule 71 of the Arizona Supreme Court which would "expunge" dismissed complaints after three years. After some discussion, Dr. Yandell made a motion, seconded by Dr. Cox, and unanimously carried (5-0-1), with Mr. Donaldson absent, to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members resumed deliberations. Dr. Yandell made a motion, seconded by Dr. Cox, and unanimously carried (5-0-1), with Mr. Donaldson absent, to deny the petition to adopt a rule that would expunge dismissed complaints from the Board's records after three years. Reasons for the denial expressed by the Board were that:

- Such a rule would conflict with Arizona statutes pertaining to public records and the retention and disposition of public records, and that
- Because of the separation of powers provision of the Arizona constitution, the Board cannot adopt a rule that conflicts with Arizona statutes.

**9. DISCUSSION/DECISION REGARDING BOARD'S FIVE YEAR RULE REVIEW PURSUANT TO A.R.S. § 41-1056**

Marcus Harvey, Deputy Director, explained that A.R.S. § 41-1056 requires that an agency review all of its rules at least once every five years to determine whether any rule should be amended or repealed. He explained that the Board must address any written criticisms of the rules received during the last five years. He stated that most of the proposed rule changes were suggested by Staff, while others were in response to public comments. It was the Board's decision whether or not to approve the suggested changes, Mr. Harvey noted, or whether to make any other changes.

Mr. Harvey then reviewed with the Board all of the proposed changes and the Board discussed each one and came to a consensus regarding the rule changes. A motion was made by Dr. Cox, seconded by Dr. Yandell, and unanimously carried (5-0-1), with Mr. Donaldson not present, to accept the proposed rule changes as discussed.

**10. COUNSEL REPORTS**

- **Litigation**
  - ❖ **Board v. McDonald – 1CA-CV02-0518** – Nancy Beck, Esq., Assistant Attorney General for the Board, reminded the Board that this case is still in the Court of Appeals, awaiting the Court's decision.
  - ❖ **Luick v. Board – LC2003-000235-001DT** – Ms. Beck reported that the Court recently gave its decision and the Board prevailed and upheld the Board's action.
  - ❖ **Stapert v. Board – LC2003-00640-001DT** – Finally, Ms. Beck reminded the Board that the Court found in favor of the Board and the appeal time is running.

**11. EXECUTIVE DIRECTOR'S REPORT**

- **Financial** – Maxine McCarthy informed the Board that at the end of December, which was halfway through the fiscal year, the Board had spent only 43% of its appropriation. She reminded the Board that she had reported at the last Board meeting that she would be testifying regarding the 2005 budget request when the Legislature convened in January.

However, Ms. McCarthy stated, it now appeared that because the Board submitted a zero-based budget, a hearing would not be necessary for the Board. She stated that she should have more information regarding the 2005 budget at the April Board meeting.

- **Legislative Update** – Ms. McCarthy reported that Senate Bill 1329 regarding Northcentral University in Prescott had been introduced by Senator Bennett, President of the Senate. She reminded the Board of its vote to strongly oppose this bill and reported that the Board's position statement had been provided to Senator Bennett. Ms. McCarthy stated that it appears that Representative Lucy Mason in the House would also introduce this bill and that this legislation would continue to be monitored in the both the Senate and the House.

## 12. LICENSING REPORT

- **New Licenses Issued** – Mr. Harvey reported that the Board had licensed the following sixteen psychologists since the December meeting, two of them by credential:

3608	Daniel Schulte, Ph.D.	3616	Jennifer Paweleck, Psy.D.
3609	Lisa Fischer, Ph.D.	3617	Paula Shepard, Psy.D.
3610	Irene Castelot, Ph.D.	3618	Brenda Paluc, Ph.D.
3611	Michael McLaughlin, Ph.D.	3619	Susan Qafisheh, Ph.D.
3612	Ilyssa Swartout, Psy.D.	3620	Azita Abtin, Psy.D.
3613	David Weinstock, Ph.D.	3621	Stanley Clark, Ed.D.
3614	David Hermosillo-Romo, Ph.D.	3622	Peter Shibuya, Ph.D.
3615	Mary Delaney, Ph.D.	3623	Nancy Van Der Veer, Psy.D.

Mr. Harvey reported that the Board had issued 78 new licenses in 2003, which compared to 65 licenses issued the previous year.

- **EPPP Results** – Mr. Harvey then reported that the following ten applicants passed the Examination for Professional Practice in Psychology (EPPP) in December and January, with none failing:

<b><u>Pass</u></b>	<b><u>Fail</u></b>
Azita Abtin, Psy.D.	None
Stanley Clark, Ed.D.	
Mary Delaney, Ph.D.	
Lisa Fischer, Ph.D.	
Michael McLaughlin, Ph.D.	
Jennifer Paweleck, Psy.D.	
Susan Qafisheh, Ph.D.	
Daniel Schulte, Ph.D.	
Ilyssa Swartout, Psy.D.	
David Weinstock, Ph.D.	

Mr. Harvey also reported that in the year 2003, 33 applicants had been approved by the Board to take the EPPP. He reported that the first-time pass for the exam was 97% in 2003, compared to 73% the previous year.

- **New Applications** – Finally, Mr. Harvey then reported that the Board had received a total of 85 new license applications last year, which compares to 79 received in 2002.

## 13. COMMITTEE REPORTS – DISCUSSION/DECISION

- **APPLICATIONS REVIEW COMMITTEE**
  - **REQUESTS TO SIT FOR EPPP & LICENSURE**

Dr. Cox made a motion, seconded by Dr. Yandell, and unanimously carried (6-0), that the following applicants, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-

203, be approved to sit for the Examination for Professional Practice in Psychology, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee:

- **Hoyer, Marilyn, Psy.D.**
- **Kewley, Karen, Psy.D.**

➤ **REQUESTS FOR LICENSURE BY WAIVER OF EPPP**

Dr. Cox then made a motion, seconded by Mr. Donaldson, and unanimously carried (6-0), that **Maria-Luanna Shibuya, Ph.D.**, having met the requirements of A.R.S. § 32-2071.01(A), be approved for licensure upon payment of the pro-rated original license fee.

➤ **RATIFICATION OF REQUEST TO RETURN TO ACTIVE STATUS**

Dr. Cox then made a motion, seconded by Mr. Donaldson, and unanimously carried (6-0), to ratify the reactivation of the inactive license of **Michael J. Helvey, Ph.D.**

Finally, Dr. Cox announced that the following applications remained **ongoing**:

Carroll, Kimberly, Psy.D.  
Havens, Pamela, Ph.D.  
McDonnell, Daniel, Ph.D.  
Peterson, Gerald, Ph.D.  
Quezada-Gomez, Carlos, Psy.D.  
Renard, Ann, Ph.D.

**14. REPORT ON ASPPB MEETING HELD ON OCTOBER 16-19, 2003 IN SCOTTSDALE, AZ**

Dr. Santos de Barona explained that she and Drs. Cox, Yandell, Counts, and Ms. McCarthy and Mr. Harvey attended the last Annual meeting of the Association of State and Provincial Psychology Boards in Scottsdale, Arizona. Dr. Cox commented on the fact that attending this meeting had been very beneficial and was a useful forum for exchanging ideas and learning about common issues facing psychology boards nationwide.

**15. DISCUSSION/DECISION REGARDING SELECTION OF DELEGATE TO ATTEND ASPPB MEETING IN MONTREAL, CANADA**

Mr. McCarthy stated that Dr. Counts had previously expressed a desire to attend this meeting and that funds were available for another Board member to attend. Newly appointed Board member, Dr. Paul, indicated from the audience that she would like to attend, and it was the consensus of the Board to select her as a delegate as well.

**16. PRESENTATION REGARDING PRESCRIPTION PRIVILEGES FOR PSYCHOLOGISTS**

Dr. Warren Littleford was present to address the Board regarding the Arizona Psychological Association's proposed legislation for 2005, giving prescriptive privileges to qualified psychologists. He explained that several other states and Canadian provinces are submitting legislation this year, some next year, with other states, such as California, challenging the laws which prohibit psychologists from prescribing. Board members asked some questions of Dr. Littleford and discussed the proposal, requesting that in future discussions of the Board, opposing viewpoints also be given the opportunity to address this issue as well.

**17. DISCUSSION/DECISION REGARDING CORRESPONDENCE RECEIVED FROM THE ARIZONA PSYCHOLOGICAL ASSOCIATION REGARDING SB1237**

Dr. Santos de Barona explained that the Arizona Psychological Association (AzPA) had invited the Board to appoint one of its members to the working group they had formed to discuss creation of a process to review complaints. Dr. Santos de Barona stated that the Board is pleased to be contacted by AzPA to be involved in this process, but would like to delay its response on this

issue pending a decision from Senator Barbara Leff regarding the Board's compromise on Senate Bill 1237.

**18. DISCUSSION/DECISION REGARDING SENATE BILL 1237**

Dr. Yandell explained that he and Dr. Santos de Barona, along with Ms. McCarthy and the Board's lobbyist had met recently with Senator Barbara Leff, sponsor of SB 1237. Drs. Joel Glassman and David Weinstock were also present to discuss a compromise on this legislation that would be acceptable to all parties. Dr. Yandell reviewed the Board's efforts through the Task Force on Complaint Process to address the issues raised by psychologists and consumers concerning complaints. Dr. Yandell read the Board's proposed compromise language to SB 1237 as a result of the meeting with Senator Leff, and discussed why the Board was in opposition to the bill as introduced. Dr. Santos de Barona explained the Board's current procedure in responding to telephone inquiries about complaints, describing what information the Board's staff provides. She also addressed the Board's retention schedule for dismissed complaint files.

Dr. Yandell stated that any proposed compromise language should apply to all licensees' complaints, and not just those against court-appointed psychologists, as has been proposed by the current language of SB 1237. Board members then discussed the legislation and proposed amendment, after which Mr. Donaldson made a motion, seconded by Dr. Yandell, and unanimously carried (6-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members resumed deliberations. Dr. Cox made a motion, seconded by Dr. Yandell, and unanimously carried (6-0), to offer a counterproposal to SB1237 that would remove the requirement that only the courts refer complaints against judicially-appointed psychologists to the Board, and amend A.R.S. § 32-2081 (E) to read as follows:

E. THE CHAIRMAN OF THE BOARD SHALL APPOINT A COMPLAINT COMMITTEE OF NOT LESS THAN THREE MEMBERS OF THE BOARD INCLUDING A PUBLIC MEMBER. THE COMPLAINT COMMITTEE SHALL REVIEW COMPLAINTS AND MAY TAKE EITHER OF THE FOLLOWING ACTIONS:

1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED ON THE BOARD'S WEBSITE.
2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW.

**19. ADJOURNMENT**

There being no further business to come before the Board, a motion was made by Mr. Donaldson, seconded by Dr. Cox, and unanimously carried (7-0), to adjourn the meeting at 4:45 p.m.

**Prepared by:**

**Marcus Harvey  
Deputy Director**

**Respectfully submitted,**

**/s/ Joseph C. Donaldson  
Secretary**